

## Message Text

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INFO OCT-01 ISO-00 L-03 EB-11 COME-00 CIEP-02 STR-08 SS-20

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TO AMEMBASSY MANILA IMMEDIATE

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E.O. 11652:GDS

TAGS: EGEN, ETRD, RP, US

SUBJECT: DRAFT TREATY OF ECONOMIC COOPERATION AND  
DEVELOPMENT WITH TRADE ANNEX

1. FOLLOWING IS TEXT OF CURRENT DRAFT OF TREATY OF ECONOMIC  
COOPERATION AND DEVELOPMENT WITH THE ANNEXED AGREEMENT ON  
TRADE. THIS DRAFT IS FOR YOUR INFORMATION ONLY AND SHOULD  
BE KEPT STRICTLY WITHIN THE EMBASSY, UNTIL FURTHER NOTICE  
FOLLOWING CONGRESSIONAL CONSULTATIONS WHICH HAVE STARTED.

2. BEGIN TEXT QUOTE:

CHAPTER I

PRELIMINARY MATTERS

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ARTICLE 1. DEFINITIONS AND SCOPE

1. AS USED IN THIS TREATY:

(1) THE TERM "NATIONAL" OF A PARTY SHALL MEAN A PERSON ELIGIBLE TO HOLD A PASSPORT ISSUED BY SUCH PARTY.

(2) THE TERM "COMPANY" OF A PARTY SHALL MEAN A CORPORATION, PARTNERSHIP, COMPANY OR OTHER ASSOCIATION, WHETHER OR NOT WITH LIMITED LIABILITY AND WHETHER OR NOT FOR PECUNIARY PROFIT, ORGANIZED AND EXISTING UNDER THE LAWS OF SUCH PARTY.

(3) THE TERM "ENTERPRISE" SHALL MEAN AN ACTIVITY, INCLUDING, BUT NOT LIMITED TO, A BUSINESS VENTURE, LAWFUL IN THE TERRITORY OF THE PARTY IN WHICH IT IS CARRIED ON, WHETHER CARRIED ON BY A COMPANY OF THE PARTY IN WHICH SUCH PROPERTY IS LOCATED, OR BY A NATIONAL OR COMPANY OF THE OTHER PARTY, TOGETHER WITH THE PROPERTY, WHETHER REAL OR PERSONAL, TANGIBLE OR INTANGIBLE, DEVOTED THERETO.

(4) THE TERM "NONDISCRIMINATORY TREATMENT" MEANS . . .

(5) THE TERM "RETAIL TRADE" MEANS . . .

2. THE TERRITORIES TO WHICH THE PRESENT TREATY EXTENDS SHALL COMPRISE ALL AREAS OF LAND AND WATER UNDER THE SOVEREIGNTY OR AUTHORITY OF EACH PARTY, OTHER THAN THE PANAMA CANAL ZONE AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS. IT DOES NOT APPLY TO TERRITORIES IN THIRD COUNTRIES UNDER THE AUTHORITY OF EITHER PARTY SOLELY AS A MILITARY BASE.

## CHAPTER II

### RECIPROCAL RIGHTS OF COMPANIES AND NATIONALS

#### ARTICLE 2 - PROTECTION OF NATIONALS

1. NATIONALS OF EITHER PARTY SHALL RECEIVE THE MOST CONSTANT PROTECTION AND SECURITY WITHIN THE TERRITORIES OF THE OTHER PARTY, IN NO CASE LESS THAN THAT REQUIRED BY INTERNATIONAL LAW. WHEN ANY SUCH NATIONAL IS IN CUSTODY HE SHALL IN EVERY RESPECT RECEIVE REASONABLE AND HUMANE TREATMENT; AND ON HIS DEMAND THE DIPLOMATIC OR CONSULAR REPRESENTATIVE OF HIS COUNTRY SHALL BE IMMEDIATELY LIMITED OFFICIAL USE  
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NOTIFIED BY THE APPROPRIATE AUTHORITIES OF THE DETAINING PARTY, AND ACCORDED FULL OPPORTUNITY TO SAFEGUARD HIS INTERESTS. HE SHALL PROMPTLY BE INFORMED OF THE ACCUSATIONS AGAINST HIM, PERMITTED TO COMMUNICATE WITH THE DIPLOMATIC OR CONSULAR REPRESENTATIVES OF HIS COUNTRY, ALLOWED AMPLE FACILITIES TO DEFEND HIMSELF, AND GIVEN A PROMPT AND IMPARTIAL DISPOSITION OF HIS CASE.

2. NATIONALS OF EITHER PARTY WITHIN THE TERRITORIES OF THE OTHER PARTY SHALL, SO LONG AS THEIR ACTIVITIES ARE NOT CONTRARY TO PUBLIC ORDER, NATIONAL SECURITY, HEALTH OR MORALS:

- (A) ENJOY LIBERTY OF CONSCIENCE AND THE RIGHT TO HOLD RELIGIOUS SERVICES;
- (B) BE PERMITTED TO ENGAGE IN PHILANTHROPIC AND SCIENTIFIC ACTIVITIES; AND
- (C) HAVE THE RIGHT TO GATHER AND TRANSMIT INFORMATION FOR

DISSEMINATION TO THE PUBLIC ABROAD, AND OTHERWISE TO COMMUNICATE WITH OTHER PERSONS INSIDE AND OUTSIDE SUCH TERRITORIES.

#### ARTICLE 3. RIGHTS IN SOCIAL LEGISLATION

1. NATIONALS OF EITHER PARTY SHALL BE ACCORDED NATIONAL TREATMENT WITH RESPECT TO THE APPLICATION OF LAWS AND REGULATIONS WITHIN THE TERRITORIES OF THE OTHER PARTY THAT ESTABLISH A PECUNIARY COMPENSATION, OR OTHER BENEFIT OR SERVICE, ON ACCOUNT OF DISEASE, INJURY, OR DEATH ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT, OR DUE TO THE NATURE OF EMPLOYMENT.
2. IN ADDITION TO THE RIGHTS AND PRIVILEGES PROVIDED IN PARAGRAPH 1 OF THE PRESENT ARTICLE, NATIONALS OF EITHER PARTY SHALL, WITHIN THE TERRITORIES OF THE OTHER PARTY, BE ACCORDED NATIONAL TREATMENT IN THE APPLICATION OF LAWS AND REGULATIONS ESTABLISHING COMPULSORY SYSTEMS OF SOCIAL SECURITY AND MEDICAL CARE, UNDER WHICH BENEFITS ARE PAID WITHOUT AN INDIVIDUAL TEST OF FINANCIAL NEED:

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- (A) AGAINST LOSS OF WAGES OR EARNINGS DUE TO OLD AGE, UNEMPLOYMENT, SICKNESS OR DISABILITY, OR
- (B) AGAINST LOSS OF FINANCIAL SUPPORT DUE TO THE DEATH OF FATHER, HUSBAND OR OTHER PERSON ON WHOM SUCH SUPPORT HAD DEPENDED.

#### ARTICLE 4. STATUS OF COMPANIES AND NATIONALS

1. COMPANIES ORGANIZED AND CONSTITUTED UNDER THE APPLICABLE LAWS AND REGULATIONS OF EITHER PARTY SHALL BE DEEMED COMPANIES THEREOF, AND SHALL HAVE THEIR JURIDICAL STATUS RECOGNIZED WITHIN THE TERRITORIES OF THE OTHER PARTY. EITHER PARTY MAY PRESCRIBE SPECIAL FORMALITIES IN CONNECTION WITH THE ESTABLISHMENT OF ALIEN-CONTROLLED ENTERPRISES WITHIN ITS TERRITORIES; BUT SUCH FORMALITIES MAY NOT IMPAIR THE SUBSTANCE OF THE RIGHTS SET FORTH IN THIS TREATY.
2. NATIONALS AND COMPANIES OF EITHER PARTY SHALL HAVE FREE ACCESS TO THE COURTS OF JUSTICE, ADMINISTRATIVE AGENCIES

AND OTHER ADJUDICATORY BODIES WITHIN THE TERRITORIES OF THE OTHER PARTY, IN ALL DEGREES OF JURISDICTION, BOTH IN DEFENSE AND IN PURSUIT OF THEIR RIGHTS, INCLUDING THEIR LAWFUL CONTRACTUAL RIGHTS. SUCH ACCESS SHALL BE ALLOWED UPON TERMS NO LESS FAVORABLE THAN THOSE APPLICABLE TO NATIONALS AND COMPANIES OF SUCH OTHER PARTY OR OF ANY THIRD COUNTRY, INCLUDING THE TERMS APPLICABLE TO REQUIREMENTS

FOR DEPOSIT OF SECURITY. IT IS UNDERSTOOD THAT COMPANIES NOT ENGAGED IN ACTIVITIES WITHIN THE COUNTRY SHALL ENJOY THE RIGHT OF SUCH ACCESS WITHOUT ANY REQUIREMENT OF REGISTRATION OR DOMESTICATION.

#### ARTICLE 5. PROPERTY RIGHTS OF COMPANIES AND NATIONALS

1. EACH PARTY SHALL AT ALL TIMES ACCORD FAIR AND EQUITABLE TREATMENT TO THE NATIONALS AND COMPANIES OF THE OTHER PARTY, AND SHALL PROVIDE THE MOST CONSTANT PROTECTION AND SECURITY TO THEIR ENTERPRISES AND OTHER PROPERTY WITHIN THE TERRITORIES OF THE OTHER PARTY.

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2. PROPERTY OF NATIONALS AND COMPANIES OF EITHER PARTY SHALL NOT BE TAKEN (WHETHER BY EXPROPRIATION, ESCHEAT OR OTHERWISE) BY THE OTHER PARTY EXCEPT FOR A PUBLIC PURPOSE, NOR SHALL IT BE TAKEN WITHOUT THE PROMPT PAYMENT OF JUST COMPENSATION. SUCH COMPENSATION SHALL BE IN AN EFFECTIVELY REALIZABLE FORM AND SHALL REPRESENT THE FULL EQUIVALENT OF THE PROPERTY TAKEN; AND ADEQUATE PROVISION SHALL HAVE BEEN MADE AT OR PRIOR TO THE TIME OF TAKING FOR THE DETERMINATION AND PAYMENT THEREOF.

3. THE DWELLINGS, OFFICES, WAREHOUSES, FACTORIES AND OTHER PREMISES OF NATIONALS AND COMPANIES OF EITHER PARTY LOCATED WITHIN THE TERRITORIES OF THE OTHER PARTY SHALL NOT BE SUBJECT TO ENTRY OR MOLESTATION WITHOUT JUST CAUSE. OFFICIAL SEARCHES AND EXAMINATIONS OF SUCH PREMISES AND THEIR CONTENTS SHALL BE MADE ONLY ACCORDING TO LAW AND WITH CAREFUL REGARD FOR THE CONVENIENCE OF THE OCCUPANTS AND THE CONDUCT OF BUSINESS.

#### ARTICLE 6. RIGHTS IN INDUSTRIAL PROPERTY

NATIONALS AND COMPANIES OF EITHER PARTY SHALL BE ACCORDED WITHIN THE TERRITORIES OF THE OTHER PARTY EFFECTIVE PROTECTION IN THE EXCLUSIVE USE OF INVENTIONS, TRADEMARKS AND TRADE NAMES, DESIGNS, WRITINGS AND OTHER ARTISTIC CREATIONS, UPON COMPLIANCE WITH THE APPLICABLE LAWS AND REGULATIONS, IF ANY, RESPECTING REGISTRATION AND OTHER FORMALITIES.

## CHAPTER III

### TRADE COOPERATION

#### ARTICLE 7. TREATMENT OF ARTICLES IN TRADE

1. EACH PARTY SHALL ACCORD TO PRODUCTS OF AND PRODUCTS DESTINED FOR EXPORTATION TO, THE OTHER PARTY TREATMENT NO LESS FAVORABLE THAN THAT ACCORDED LIKE PRODUCTS OF, OR DESTINED FOR EXPORTATION TO, ANY THIRD COUNTRY, IN MATTERS RELATING TO:

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(A) CUSTOMS DUTIES, AS WELL AS ANY OTHER CHARGES, REGULATIONS AND FORMALITIES IMPOSED UPON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION;

(B) INTERNAL TAXATION, SALE, DISTRIBUTION, STORAGE AND USE; AND

(C) THE METHOD OF LEVYING SUCH DUTIES, CHARGES AND TAXES. THE SAME RULE SHALL APPLY WITH RESPECT TO INTERNATIONAL TRANSFER OF PAYMENTS FOR IMPORTS AND EXPORTS.

2. ADDITIONALLY, THE UNITED STATES SHALL, SUBJECT TO THE LIMITATIONS ON PREFERENTIAL TREATMENT, AND IN ALL OTHER RESPECTS IN ACCORDANCE WITH THE REQUIREMENTS OF UNITED STATES LAWS, ACCORD TO PRODUCTS OF THE REPUBLIC OF THE PHILIPPINES TREATMENT NO LESS FAVORABLE THAN THAT ACCORDED LIKE PRODUCTS OF ANY THIRD COUNTRY DETERMINED TO BE A DEVELOPING COUNTRY FOR PURPOSES OF ANY SYSTEM OF PREFERENCES FOR DEVELOPING COUNTRIES AUTHORIZED PURSUANT TO SUCH LAWS.

3. NEITHER PARTY SHALL IMPOSE RESTRICTIONS OR PROHIBITIONS ON THE IMPORTATION OF ANY PRODUCT OF THE OTHER PARTY, OR ON THE EXPORTATION OF ANY PRODUCT TO THE TERRITORIES OF THE OTHER PARTY, UNLESS THE IMPORTATION OF THE LIKE PRODUCT OF, OR THE EXPORTATION OF THE LIKE PRODUCT TO, ALL THIRD COUNTRIES IS SIMILARLY RESTRICTED OR PROHIBITED.

#### ARTICLE 8. TRADE CONCESSIONS

EACH PARTY SHALL ACCORD TO PRODUCTS OF THE OTHER PARTY TREATMENT NO LESS FAVORABLE THAN THAT PROVIDED FOR IN THE APPROPRIATE SCHEDULE ATTACHED TO THE ANNEXED AGREEMENT ON TRADE MEASURES SIGNED ON THE DATE OF THIS TREATY.

#### ARTICLE 9. EXCEPTIONS

1. EITHER PARTY MAY ADOPT MEASURES NECESSARY TO ASSURE THE UTILIZATION OF ACCUMULATED INCONVERTIBLE CURRENCIES OR TO DEAL WITH A STRINGENCY OF FOREIGN EXCHANGE. HOWEVER, SUCH MEASURES SHALL DEVIATE NO MORE THAN NECESSARY FROM A POLICY LIMITED OFFICIAL USE  
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DESIGNED TO PROMOTE THE MAXIMUM DEVELOPMENT OF NONDISCRIMINATORY INTERNATIONAL TRADE AND TO EXPEDITE THE ATTAINMENT OF A BALANCE-OF-PAYMENTS POSITION WHICH WILL OBTAIN THE NECESSITY OF SUCH MEASURES.

2. EACH PARTY RESERVES THE RIGHT TO ACCORD SPECIAL ADVANTAGES:

(A) TO ADJACENT COUNTRIES IN ORDER TO FACILITATE FRONTIER TRAFFIC; OR

(B) BY VIRTUE OF A CUSTOMS UNION OR FREE TRADE AREA OF WHICH IT, AFTER INFORMING THE OTHER PARTY OF ITS PLANS, MAY BECOME A MEMBER.

EACH PARTY, MOREOVER, RESERVES RIGHTS AND OBLIGATIONS IT MAY HAVE UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE AND SPECIAL ADVANTAGES IT MAY ACCORD PURSUANT THERETO.

3. ADDITIONALLY, THE REPUBLIC OF THE PHILIPPINES RESERVES THE RIGHT TO ACCORD SPECIAL ADVANTAGES TO DEVELOPING COUNTRIES UNDER LEGISLATION OF THE REPUBLIC OF THE PHILIPPINES AND CONSISTENT WITH ITS INTERNATIONAL OBLIGATIONS PROVIDING FOR A GENERALIZED SYSTEM OF PREFERENCES; PROVIDED THAT THE REPUBLIC OF THE PHILIPPINES SHALL NOT ACCORD TO THE PRODUCTS OF ANY DEVELOPED COUNTRY TREATMENT MORE FAVORABLE THAN THAT ACCORDED TO PRODUCTS OF THE UNITED STATES.

#### ARTICLE 10. CUSTOMS REGULATIONS AND PROCEDURES

IN THE ADMINISTRATION OF ITS CUSTOMS REGULATIONS AND PROCEDURES, EACH PARTY SHALL:

(A) PROMPTLY PUBLISH ALL REQUIREMENTS OF GENERAL APPLICATION AFFECTING IMPORTATION AND EXPORTATION;

(B) APPLY SUCH REQUIREMENTS IN A UNIFORM, IMPARTIAL AND REASONABLE MANNER;

(C) REFRAIN, AS A GENERAL PRACTICE, FROM ENFORCING NEW OR LIMITED OFFICIAL USE  
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MORE BURDENSOME REQUIREMENTS UNTIL AFTER PUBLIC NOTICE THEREOF;

(D) ALLOW APPEALS TO BE TAKEN FROM RULINGS OF THE CUSTOMS AUTHORITIES; AND

(E) USE AS THE BASE VALUE OF IMPORTED AND EXPORTED MERCHANDISE FOR CUSTOMS PURPOSES THE ACTUAL VALUE OF THE IMPORTED OR EXPORTED MERCHANDISE ON WHICH DUTY IS ASSESSED, OR OF LIKE MERCHANDISE, AND NOT ARBITRARY OR FICTITIOUS VALUES. "ACTUAL VALUE" IS TO BE ARRIVED AT BY EACH PARTY IN ACCORDANCE WITH PROCEDURES ESTABLISHED IN ITS TARIFF LAWS AS OF THE DATE OF THIS AGREEMENT.

#### ARTICLE 11. FEES AND FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION

ALL FEES AND CHARGES OF WHATEVER CHARACTER, OTHER THAN IMPORT AND EXPORT DUTIES AND OTHER THAN TAXES WITHIN THE PURVIEW OF ARTICLE 7 (1)(B) IMPOSED BY EITHER PARTY ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION SHALL BE LIMITED IN AMOUNT TO THE APPROXIMATE COST OF SERVICES RENDERED AND SHALL NOT REPRESENT AN INDIRECT PROTECTION TO DOMESTIC PRODUCTS OR A TAXATION OF IMPORTS OR EXPORTS FOR FISCAL PURPOSES. BOTH PARTIES RECOGNIZE THE NEED FOR REDUCING THE NUMBER AND DIVERSITY OF SUCH FEES AND CHARGES. BOTH PARTIES ALSO RECOGNIZE THE NEED FOR MINIMIZING THE INCIDENCE AND COMPLEXITY OF IMPORT AND EXPORT FORMALITIES AND FOR DECREASING AND SIMPLIFYING IMPORT AND EXPORT DOCUMENTATION REQUIREMENTS.

#### ARTICLE 12. GENERAL ELIMINATION OF QUANTITATIVE RESTRICTIONS

1. ANY RESTRICTION IMPOSED BY EITHER PARTY ON THE IMPORTATION OF ARTICLES OF THE OTHER PARTY FOR THE PURPOSE OF SAFEGUARDING ITS EXTERNAL FINANCIAL POSITION AND BALANCE OF PAYMENTS SHALL NOT EXCEED THOSE NECESSARY TO FORESTALL THE IMMIMENT THREAT OF, OR TO HALT, A SERIOUS DECLINE IN ITS MONETARY RESERVES, OR TO ACHIEVE A REASONABLE RATE OF INCREASE IN ITS RESERVES, IF SUCH RESERVES ARE LIMITED OFFICIAL USE  
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VERY LOW. MOREOVER, THE PARTY APPLYING SUCH MEASURES FOR THIS PURPOSE SHALL PROGRESSIVELY RELAX OR ELIMINATE THEM AS SUCH CONDITIONS IMPROVE, MAINTAINING THEM ONLY TO THE EXTENT THAT SUCH CONDITIONS STILL JUSTIFY THEIR APPLICATION.

2. ANY QUANTITATIVE IMPORT RESTRICTION IMPOSED BY EITHER PARTY ON ARTICLES OF THE OTHER PARTY IN ORDER TO SAFEGUARD ITS EXTERNAL FINANCIAL POSITION AND ITS BALANCE OF PAYMENTS SHALL NOT BE SUCH AS WOULD CAUSE UNNECESSARY DAMAGE TO THE COMMERCIAL OR ECONOMIC INTERESTS OF THE OTHER PARTY; PREVENT UNREASONABLY THE IMPORTATION OF ANY DESCRIPTION OF GOODS IN MINIMUM COMMERCIAL QUANTITIES THE EXCLUSION OF WHICH WOULD IMPAIR REGULAR TRADE CHANNELS; PREVENT THE IMPORTATION OF COMMERCIAL SAMPLES; OR PREVENT COMPLIANCE WITH PATENT, TRADE-MARK, COPYRIGHT OR SIMILAR PROCEDURES.

#### CHAPTER IV

#### PRIVATE COOPERATION FOR DEVELOPMENT

#### ARTICLE 13. ESTABLISHMENT AND OPERATION OF ENTERPRISES

1. EACH PARTY, RECOGNIZING THE CONTRIBUTION WHICH MAY BE MADE TO THE DEVELOPMENT AND EXPANSION OF THEIR RESPECTIVE ECONOMIES BY PRIVATE DIRECT INVESTMENT, SHALL ENDEAVOR TO FACILITATE INVESTMENTS BY NATIONALS AND COMPANIES OF THE OTHER PARTY, SUBJECT TO THE FURTHER PROVISIONS OF THIS CHAPTER.

2. EACH PARTY RESERVES THE RIGHT TO LIMIT THE EXTENT TO WHICH ALIENS MAY ESTABLISH, ACQUIRE INTERESTS IN, OR CARRY ON ENTERPRISES ENGAGED WITHIN ITS TERRITORIES IN THE MASS MEDIA AND TELECOMMUNICATIONS, AIR, LAND OR WATER TRANSPORT, THE FURNISHING OF ELECTRICITY, WATER AND GAS, TRUST FUNCTIONS, BANKING INVOLVING DEPOSITORY FUNCTIONS, RETAIL TRADE, OR THE ACQUISITION, OWNERSHIP, OR EXPLOITATION OF LAND OR OTHER NATURAL RESOURCES. HOWEVER, NEW LIMITATIONS IMPOSED BY EITHER PARTY UPON THE EXTENT TO WHICH ALIENS ARE ACCORDED NONDISCRIMINATORY TREATMENT WITH RESPECT TO CARRY-LIMITED OFFICIAL USE  
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ING ON SUCH ACTIVITIES WITHIN ITS TERRITORIES SHALL NOT BE APPLIED AGAINST ENTERPRISES THAT ARE ENGAGED IN SUCH ACTIVITIES THEREIN AT THE TIME SUCH NEW LIMITATIONS ARE ADOPTED. WITH RESPECT TO ANY LIMITATIONS ON THE RIGHT TO ESTABLISH, ACQUIRE INTERESTS IN, OR CARRY ON ENTERPRISES, EACH PARTY SHALL ACCORD TO NATIONALS AND COMPANIES OF THE OTHER PARTY TREATMENT NO LESS FAVORABLE THAN THAT ACCORDED TO NATIONALS AND COMPANIES OF ANY THIRD COUNTRY.

3. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, NATIONALS AND COMPANIES OF EITHER PARTY SHALL BE ACCORDED NONDISCRIMINATORY TREATMENT WITH RESPECT TO THE ESTABLISHMENT, ACQUISITION OF INTERESTS IN, AND OPERATION OF ENTERPRISES ENGAGED IN COMMERCIAL, INDUSTRIAL, FINANCIAL OR



OTHER BUSINESS ACTIVITIES WITHIN THE TERRITORIES OF THE OTHER PARTY; AND SUCH TREATMENT SHALL LIKEWISE BE ACCORDED TO NATIONALS AND COMPANIES OF EITHER PARTY WITH RESPECT TO ENTERPRISES WHICH THEY ESTABLISH, ACQUIRE INTERESTS IN, OR OPERATE JOINTLY WITH NATIONALS AND COMPANIES OF THE OTHER PARTY.

4. EACH PARTY RESERVES THE RIGHT TO LIMIT THE EXTENT TO WHICH ALIENS MAY ENGAGE IN PROFESSIONS WHICH, BECAUSE THEY INVOLVE THE PERFORMANCE OF FUNCTIONS IN A PUBLIC CAPACITY OR IN THE INTERESTS OF PUBLIC HEALTH AND SAFETY, ARE STATE-LICENSED AND RESERVED BY LAW TO NATIONALS OF SUCH PARTY.

#### ARTICLE 14. EXCHANGE RESTRICTIONS

1. IF EITHER PARTY APPLIES EXCHANGE RESTRICTIONS, IT SHALL MAKE REASONABLE PROVISION, NOT LESS FAVORABLE THAN THAT ACCORDED TO NATIONALS AND COMPANIES OF ANY THIRD COUNTRY, FOR THE WITHDRAWAL, IN FOREIGN EXCHANGE IN THE CURRENCY OF THE OTHER PARTY, OF:

(A) THE COMPENSATION REFERRED TO IN ARTICLE 5, PARAGRAPH 2 OF THE PRESENT TREATY,

(B) EARNINGS, WHETHER IN THE FORM OF SALARIES, INTEREST, DIVIDENDS, COMMISSIONS, ROYALTIES, PAYMENTS FOR TECHNICAL SERVICES, OR OTHERWISE, AND

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(C) AMOUNTS FOR AMORTIZATION OF LOANS, DEPRECIATION OF DIRECT INVESTMENTS AND CAPITAL TRANSFERS, GIVING CONSIDERATION TO SPECIAL NEEDS FOR OTHER TRANSACTIONS. IF MORE THAN ONE RATE OF EXCHANGE IS IN FORCE, THE RATE APPLICABLE TO SUCH WITHDRAWAL SHALL BE A RATE WHICH IS SPECIFICALLY APPROVED BY THE INTERNATIONAL MONETARY FUND FOR SUCH TRANSACTIONS OR, IN THE ABSENCE OF A RATE SO APPROVED, AN EFFECTIVE RATE WHICH, INCLUSIVE OF ANY TAXES OR SURCHARGES ON EXCHANGE TRANSFERS, IS JUST AND REASONABLE.

2. EITHER PARTY APPLYING EXCHANGE RESTRICTIONS SHALL IN GENERAL ADMINISTER THEM IN A MANNER NOT TO INFLUENCE DISADVANTAGEOUSLY THE COMPETITIVE POSITION OF THE COMMERCE, TRANSPORT OR INVESTMENT OF CAPITAL OF THE OTHER PARTY, BY COMPARISON WITH THE COMMERCE, TRANSPORT OR INVESTMENT OF ANY THIRD COUNTRY.

3. NO PROVISION IN THIS TREATY SHALL BE CONSTRUED AS LIMITING IN ANY MANNER ANY MEASURE TO SAFEGUARD THE INTEGRITY AND INDEPENDENCE OF THE CURRENCY OF EITHER PARTY, NOR TO PRECLUDE EITHER PARTY FROM IMPOSING SUCH EXCHANGE RESTRICTIONS AS MAY BE NECESSARY TO SAFEGUARD ITS EXTERNAL

FINANCIAL POSITION AND BALANCE OF PAYMENTS, AND AS ARE CONSISTENT WITH THE RIGHTS AND OBLIGATIONS THAT EITHER PARTY MAY HAVE AS A MEMBER OF THE INTERNATIONAL MONETARY FUND.

ARTICLE 15. SHIPPING

1. BETWEEN THE TERRITORIES OF THE TWO PARTIES THERE SHALL BE FREEDOM OF COMMERCE AND NAVIGATION.

2. VESSELS UNDER THE FLAG OF EITHER PARTY, AND CARRYING THE PAPERS REQUIRED BY ITS LAW IN PROOF OF NATIONALITY, SHALL BE DEEMED TO BE VESSELS OF THAT PARTY BOTH ON THE HIGH SEAS AND WITHIN THE PORTS, PLACES AND WATERS OF THE OTHER PARTY.

3. VESSELS OF EITHER PARTY THAT ARE IN DISTRESS SHALL BE PERMITTED TO TAKE REFUGE IN THE NEAREST PORT OF HAVEN OF LIMITED OFFICIAL USE  
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THE OTHER PARTY, AND SHALL RECEIVE FRIENDLY TREATMENT AND ASSISTANCE.

4. VESSELS OF EITHER PARTY SHALL HAVE LIBERTY, ON EQUAL TERMS WITH VESSELS OF THE OTHER PARTY AND OF ANY THIRD COUNTRY, TO COME WITH THEIR PASSENGERS AND CARGOES TO ALL PORTS, PLACES AND WATERS OF SUCH OTHER PARTY OPEN TO FOREIGN COMMERCE AND NAVIGATION. SUCH VESSELS SHALL IN ALL RESPECTS BE ACCORDED TREATMENT NO LESS FAVORABLE THAN THAT ACCORDED TO LIKE VESSELS OF ANY THIRD COUNTRY, AND SHALL BE ACCORDED TREATMENT NO LESS FAVORABLE THAN THAT ACCORDED TO LIKE VESSELS OF SUCH OTHER PARTY WITH RESPECT TO TECHNICAL FACILITIES OF ALL KINDS, SUCH AS THE ALLOCATION OF BERTHS, THE USE OF LOADING AND UNLOADING FACILITIES, PILOTAGE SERVICES, AND SUPPLY OF FUEL, LUBRICATING OILS, WATER AND FOOD.

5. VESSELS OF EITHER PARTY SHALL BE ACCORDED TREATMENT NO LESS FAVORABLE THAN THAT ACCORDED LIKE VESSELS OF ANY THIRD COUNTRY WITH RESPECT TO THE RIGHT TO CARRY ALL GOODS AND PERSONS THAT MAY BE CARRIED BY VESSELS TO OR FROM THE TERRITORIES OF THE OTHER PARTY; AND SUCH GOODS AND PERSONS SHALL BE ACCORDED TREATMENT NO LESS FAVORABLE THAN THAT ACCORDED TO LIKE GOODS AND PERSONS CARRIED IN VESSELS OF SUCH OTHER PARTY WITH RESPECT TO:

(A) DUTIES AND CHARGES OF ALL KINDS,

(B) THE ADMINISTRATION OF THE CUSTOMS, AND

(C) BOUNTIES, DRAWBACKS AND OTHER PRIVILEGES OF THIS NATURE.

6. EACH PARTY MAY RESERVE TO ITS OWN VESSELS THE RIGHT TO ENGAGE IN THE COASTWISE TRADE AND INLAND NAVIGATION. VESSELS OF EITHER PARTY MAY, NEVERTHELESS, PROCEED FROM ONE PORT TO ANOTHER WITHIN THE TERRITORIES OF THE OTHER PARTY, EITHER FOR THE PURPOSE OF LANDING THE WHOLE OR PART OF THEIR PASSENGERS OR CARGOES BROUGHT FROM ABROAD, OR OF TAKING ON BOARD THE WHOLE OR PART OF THEIR PASSENGERS OR CARGOES FOR A FOREIGN DESTINATION, ALWAYS COMPLYING WITH THE LAWS AND REGULATIONS OF SUCH OTHER PARTY.

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7. THE TERM "VESSELS" AS USED HEREIN, MEANS ALL TYPES OF VESSELS, WHETHER PRIVATELY OWNED OR OPERATED OR PUBLICLY OWNED OR OPERATED, BUT THIS TERM DOES NOT, EXCEPT WITH REFERENCE TO PARAGRAPHS 2 AND 3 OF THE PRESENT ARTICLE, INCLUDE FISHING VESSELS OR VESSELS OF WAR.

#### CHAPTER V

#### GENERAL MATTERS

#### ARTICLE 16. EXCEPTIONS

1. THE PRESENT TREATY SHALL NOT PRECLUDE THE APPLICATION OF MEASURES:

(A) OF A NONCOMMERCIAL NATURE IMPOSED ON MORAL OR HUMANITARIAN GROUNDS;

(B) NECESSARY TO PROTECT HUMAN, ANIMAL, OR PLANT LIFE OR HEALTH;

(C) REGULATING THE IMPORTATION OR EXPORTATION OF GOLD OR SILVER;

(D) RELATING TO FISSIONABLE MATERIALS, THE RADIOACTIVE BY-PRODUCTS THEREOF, OR THE SOURCES THEREOF;

(E) REGULATING THE PRODUCTION OF, OR TRAFFIC IN ARMS, AMMUNITION AND IMPLEMENTS OF WAR, OR TRAFFIC IN OTHER MATERIALS CARRIED ON DIRECTLY OR INDIRECTLY FOR THE PURPOSE OF SUPPLYING A MILITARY ESTABLISHMENT;

(F) NECESSARY TO FULFILL THE OBLIGATIONS OF A PARTY FOR MAINTENANCE OR RESTORATION OF INTERNATIONAL PEACE AND SECURITY, OR NECESSARY TO PROTECT ITS ESSENTIAL SECURITY INTERESTS;

(G) REGARDING ITS NATIONAL FISHERIES AND THE LANDING OF THE PRODUCTS THEREOF;

(H) FOR THE PRESERVATION OF THE NATIONAL ARTISTIC,  
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HISTORICAL OR ARCHAEOLOGICAL HERITAGE; OR

(I) FOR THE PREVENTION OF DECEPTIVE OR UNFAIR PRACTICES;

PROVIDED SUCH MEASURES DO NOT ARBITRARILY DISCRIMINATE  
AGAINST THE COMMERCE OF THE OTHER PARTY.

2. THE PRESENT TREATY DOES NOT ACCORD ANY RIGHT TO ENGAGE  
IN POLITICAL ACTIVITIES.

3. THE MOST-FAVORED-NATION PROVISIONS OF THE PRESENT  
TREATY RELATING TO THE TREATMENT OF GOODS SHALL NOT EX-  
TEND TO ADVANTAGES ACCORDED BY THE UNITED STATES OF  
AMERICA OR ITS POSSESSIONS, IRRESPECTIVE OF ANY FUTURE  
CHANGE IN THEIR POLITICAL STATUS, TO ONE ANOTHER, TO THE

TRUST TERRITORY OF THE PACIFIC ISLANDS, OR TO THE PANAMA  
CANAL ZONE.

#### ARTICLE 17. DISPUTES SETTLEMENT

1. EACH PARTY SHALL ACCORD SYMPATHETIC CONSIDERATION TO,  
AND SHALL AFFORD ADEQUATE OPPORTUNITY FOR CONSULTATION  
REGARDING, SUCH REPRESENTATIONS AS THE OTHER PARTY MAY MAKE  
WITH RESPECT TO ANY MATTER AFFECTING THE OPERATION OF THE  
PRESENT TREATY.

2. ANY DISPUTE BETWEEN THE PARTIES AS TO THE INTER-  
PRETATION OR APPLICATION OF THE PRESENT TREATY, NOT SATIS-  
FACTORILY ADJUSTED BY DIPLOMACY, SHALL BE SUBMITTED TO  
THE INTERNATIONAL COURT OF JUSTICE, UNLESS THE PARTIES  
AGREE TO SETTLEMENT BY SOME OTHER PACIFIC MEANS.

#### ARTICLE 18. CONCLUDING PROVISIONS

1. THIS TREATY SHALL ENTER INTO FORCE UPON THE EXCHANGE OF  
RATIFICATIONS THEREOF. IT SHALL REMAIN IN FORCE FOR A  
PERIOD OF TEN YEARS AND SHALL CONTINUE THEREAFTER UNLESS  
TERMINATED AS PROVIDED HEREUNDER.

2. EITHER PARTY MAY TERMINATE THIS TREATY AT THE END OF  
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THE INITIAL PERIOD OF TEN YEARS, OR AT ANY TIME THEREAFTER,  
BY GIVING A SIX-MONTHS WRITTEN NOTICE TO THE OTHER PARTY.

3. NOTWITHSTANDING THE FOREGOING PROVISIONS, IF EITHER PARTY SHALL GIVE NOTICE OF TERMINATION OF THE AGREEMENT ON TRADE MEASURES SIGNED ON THE DATE OF THIS TREATY IN ACCORDANCE WITH PARAGRAPH 7 THEREOF, THE OTHER PARTY MAY AT ANY TIME TERMINATE THIS TREATY BY GIVING SIX-MONTHS WRITTEN NOTICE TO THE OTHER PARTY.

ANNEXED AGREEMENT ON TRADE MEASURES BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES

1. EACH PARTY SHALL ACCORD TO THE COMMERCE OF THE OTHER PARTY TREATMENT NO LESS FAVORABLE THAN THAT PROVIDED FOR IN THE APPROPRIATE SCHEDULE ATTACHED TO THIS AGREEMENT. NEITHER PARTY SHALL TAKE ANY ACTION WHICH SHALL HAVE THE EFFECT OF NULLIFYING OR IMPAIRING THE BENEFITS ACCORDED TO THE COMMERCE OF THE OTHER PARTY PURSUANT TO SUCH SCHEDULES, EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT.

2. NOTHING IN THIS AGREEMENT SHALL PREVENT EITHER PARTY FROM IMPOSING AT ANY TIME ON THE IMPORTATION OF ANY PRODUCT OF THE OTHER PARTY:

(A) A CHARGE EQUIVALENT TO AN INTERNAL TAX IN RESPECT OF THE LIKE DOMESTIC PRODUCT OR IN RESPECT OF AN ARTICLE FROM WHICH THE IMPORTED PRODUCT HAS BEEN MANUFACTURED OR PRODUCED IN WHOLE OR IN PART;

(B) ANY ANTI-DUMPING OR COUNTERVAILING DUTY; OR

(C) FEES OR OTHER CHARGES COMMENSURATE WITH THE COST OF SERVICES RENDERED.

3. NEITHER PARTY SHALL ALTER ITS METHOD OF DETERMINING DUTIABLE VALUE OR OF CONVERTING CURRENCIES SO AS TO IMPAIR THE VALUE OF ANY OF THE CONCESSIONS PROVIDED FOR IN THE APPROPRIATE SCHEDULE ANNEXED TO THIS AGREEMENT.

4. NEITHER PARTY SHALL LEVY AN ANTI-DUMPING DUTY GREATER LIMITED OFFICIAL USE  
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IN AMOUNT THAN THE MARGIN OF DUMPING IN RESPECT OF THE PRODUCT CONCERNED, AS DETERMINED IN ACCORDANCE WITH ARTICLE VI OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE.

5. NO COUNTERVAILING DUTY SHALL BE LEVIED ON ANY PRODUCT OF THE TERRITORY OF EITHER PARTY IMPORTED INTO THE TERRITORY OF THE OTHER PARTY IN EXCESS OF AN AMOUNT EQUAL TO THE ESTIMATED BOUNTY OR SUBSIDY DETERMINED TO HAVE BEEN GRANTED, DIRECTLY OR INDIRECTLY, ON MANUFACTURE, PRODUCTION OR EXPORT OF SUCH PRODUCT.

6. IF ANY PRODUCT IS BEING IMPORTED INTO THE TERRITORY OF A PARTY IN SUCH INCREASED QUANTITIES AND UNDER SUCH CONDITIONS AS TO CAUSE OR THREATEN SERIOUS INJURY TO DOMESTIC PRODUCERS IN THAT TERRITORY OF LIKE OR DIRECTLY COMPETITIVE PRODUCTS, SUCH PARTY SHALL BE FREE, IN RESPECT OF SUCH PRODUCT, AND TO THE EXTENT AND FOR SUCH TIME AS MAY BE NECESSARY TO PREVENT OR REMEDY SUCH INJURY, TO SUSPEND ITS OBLIGATIONS UNDER THIS AGREEMENT IN WHOLE OR IN PART OR TO WITHDRAW OR MODIFY ANY CONCESSION HEREIN. BEFORE EITHER PARTY SHALL TAKE ACTION PURSUANT TO THIS PARAGRAPH, IT SHALL GIVE NOTICE IN WRITING TO THE OTHER PARTY AS FAR IN ADVANCE AS MAY BE PRACTICABLE AND SHALL AFFORD THE OTHER PARTY AN OPPORTUNITY TO CONSULT WITH IT IN RESPECT OF THE PROPOSED ACTION. IN CRITICAL CIRCUMSTANCES, WHERE DELAY WOULD CAUSE DAMAGE WHICH IT WOULD BE DIFFICULT TO REPAIR, ACTION UNDER THIS PARAGRAPH MAY BE TAKEN PROVISIONALLY WITHOUT PRIOR CONSULTATION, ON THE CONDITION THAT CONSULTATION SHALL BE EFFECTED IMMEDIATELY AFTER TAKING SUCH ACTION. IF AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE ACTION IS NOT REACHED, THE PARTY PROPOSING TO TAKE OR CONTINUE SUCH ACTION SHALL, NEVERTHELESS, BE FREE TO DO SO, AND IF SUCH ACTION IS TAKEN OR CONTINUED, THE OTHER

PARTY SHALL THEN BE FREE, NOT LATER THAN 90 DAYS AFTER SUCH ACTION IS TAKEN, TO SUSPEND THE APPLICATION TO THE TRADE OF THE PARTY TAKING SUCH ACTION OF SUBSTANTIALLY EQUIVALENT CONCESSIONS OR OTHER OBLIGATIONS UNDER THIS AGREEMENT, OR UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE.

7. THE PROVISIONS OF THE TREATY OF ECONOMIC COOPERATION  
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AND DEVELOPMENT SIGNED THIS DAY BETWEEN THE PARTIES SHALL BE APPLICABLE TO THIS AGREEMENT. ADDITIONALLY, AT SUCH TIME AS THE REPUBLIC OF THE PHILIPPINES SHALL BECOME A CONTRACTING PARTY TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE, THE CONCESSIONS EMBODIED IN THE SCHEDULES ANNEXED TO THIS AGREEMENT SHALL BE EMBODIED IN THE RESPECTIVE SCHEDULES OF THE UNITED STATES AND THE REPUBLIC OF THE PHILIPPINES PURSUANT TO ARTICLE II OF SUCH AGREEMENT, AND THE OBLIGATIONS IMPOSED BY THIS AGREEMENT SHALL BE SUPERSEDED TO THE EXTENT THAT ANY OF THEM ARE INCONSISTENT WITH THE PROVISIONS OF THAT AGREEMENT.

8. THIS AGREEMENT SHALL ENTER INTO FORCE ON THE DATE ON WHICH THE TREATY OF ECONOMIC COOPERATION AND DEVELOPMENT SIGNED THIS DAY BETWEEN THE PARTIES ENTERS INTO FORCE. THIS AGREEMENT SHALL REMAIN IN FORCE FOR A PERIOD OF THREE YEARS AND SHALL CONTINUE IN FORCE THEREAFTER UNTIL TERMINATED. EITHER PARTY MAY TERMINATE THIS AGREEMENT AT THE

END OF THE INITIAL PERIOD OF THREE YEARS OR AT ANY TIME  
THEREAFTER, BY GIVING SIX-MONTHS WRITTEN NOTICE TO THE  
OTHER PARTY.

SCHEDULE I

MAXIMUM RATES OF DUTY TO BE ASSESSED BY THE REPUBLIC OF THE  
PHILIPPINES ON DESCRIBED PRODUCTS OF THE UNITED STATES OF  
AMERICA

PHILIPPINES CUSTOMS TARIFF NUMBER

DESCRIPTION OF ARTICLE

RATE OF DUTY

SCHEDULE II

MAXIMUM RATES OF DUTY TO BE ASSESSED BY THE UNITED STATES  
OF AMERICA ON DESCRIBED PRODUCTS OF THE REPUBLIC OF THE  
PHILIPPINES

TARIFF SCHEDULES OF THE UNITED STATES ITEM NUMBER

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DESCRIPTION OF ARTICLE

RATE OF DUTY. END QUOTE.

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<< END OF DOCUMENT >>

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 27 JUL 1999  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** ECONOMIC COOPERATION, ECONOMIC DEVELOPMENT, TRADE, AGREEMENT DRAFT  
**Control Number:** n/a  
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**Draft Date:** 11 JUN 1974  
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**Disposition Approved on Date:**  
**Disposition Authority:** blochd0  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
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